

**ASSEMBLY BILL**

**No. 1835**

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**Introduced by Assembly Member Holden**

February 9, 2016

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An act to amend Section 94874 of the Education Code, relating to private postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1835, as introduced, Holden. California Private Postsecondary Education Act of 2009: exemptions.

Existing law, the California Private Postsecondary Education Act of 2009, provides, among other things, for student protections and regulatory oversight of private postsecondary institutions in the state. The act is enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs. The act exempts an institution from its provisions if any of a list of specific criteria are met.

This bill would exempt from the provisions of the act an institution solely offering terminal professional degrees if: (1) all students hold master's or doctoral degrees before enrolling at the institution, (2) all students, except for certain designated research candidates, hold a valid professional license, and that license remains valid throughout the period of their enrollment at the institution, and (3) the institution does not accept federal student aid.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 94874 of the Education Code is amended to read:

94874. Except as provided in Section 94874.2, the following are exempt from this chapter:

(a) An institution that offers solely avocational or recreational educational programs.

(b) (1) An institution offering educational programs sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

(2) (A) Except as provided in subparagraph (B), a bona fide organization, association, or council that offers preapprenticeship training programs, on behalf of one or more Division of Apprenticeship Standards-approved labor-management apprenticeship programs that satisfies one of the following conditions:

(i) It is not on the Eligible Training Provider List established and maintained by the California Workforce Investment Board but has met the requirements for placement on the list.

(ii) It is on the Eligible Training Provider List established and maintained by the California Workforce Investment Board and meets the requirements for continued listing.

(B) If an organization, association, or council has been removed from the Eligible Training Provider List established and maintained by the California Workforce Investment Board for failure to meet performance standards, it is not exempt until it meets all applicable performance standards.

(c) A postsecondary educational institution established, operated, and governed by the federal government or by this state or its political subdivisions.

(d) An institution *solely* offering ~~either~~ any of the following:

(1) Test preparation for examinations required for admission to a postsecondary educational institution.

(2) Continuing education or license examination preparation, if the institution or the program is approved, certified, or sponsored by any of the following:

(A) A government agency, other than the bureau, that licenses persons in a particular profession, occupation, trade, or career field.

1 (B) A state-recognized professional licensing body, such as the  
2 State Bar of California, that licenses persons in a particular  
3 profession, occupation, trade, or career field.

4 (C) A bona fide trade, business, or professional organization.

5 (3) *Terminal professional degrees, as long as all of the following*  
6 *conditions are met:*

7 (A) *All students hold master's or doctoral degrees before*  
8 *enrolling at the institution.*

9 (B) *All students, except for research candidates whose practice*  
10 *is regulated by the Medical Board of California pursuant to Section*  
11 *2529 of the Business and Professions Code, hold a valid*  
12 *professional license, and that license remains valid throughout*  
13 *their tenures at the institution.*

14 (C) *The institution does not accept federal student aid.*

15 (e) (1) An institution owned, controlled, and operated and  
16 maintained by a religious organization lawfully operating as a  
17 nonprofit religious corporation pursuant to Part 4 (commencing  
18 with Section 9110) of Division 2 of Title 1 of the Corporations  
19 Code, that meets all of the following requirements:

20 (A) The instruction is limited to the principles of that religious  
21 organization, or to courses offered pursuant to Section 2789 of  
22 Business and Professions Code.

23 (B) The diploma or degree is limited to evidence of completion  
24 of that education.

25 (2) An institution operating under this subdivision shall offer  
26 degrees and diplomas only in the beliefs and practices of the  
27 church, religious denomination, or religious organization.

28 (3) An institution operating under this subdivision shall not  
29 award degrees in any area of physical science.

30 (4) Any degree or diploma granted under this subdivision shall  
31 contain on its face, in the written description of the title of the  
32 degree being conferred, a reference to the theological or religious  
33 aspect of the degree's subject area.

34 (5) A degree awarded under this subdivision shall reflect the  
35 nature of the degree title, such as "associate of religious studies,"  
36 "bachelor of religious studies," "master of divinity," or "doctor of  
37 divinity."

38 (f) An institution that does not award degrees and that solely  
39 provides educational programs for total charges of two thousand  
40 five hundred dollars (\$2,500) or less when no part of the total

1 charges is paid from state or federal student financial aid programs.  
2 The bureau may adjust this cost threshold based upon the California  
3 Consumer Price Index and post notification of the adjusted cost  
4 threshold on its Internet Web site, as the bureau determines,  
5 through the promulgation of regulations, that the adjustment is  
6 consistent with the intent of this chapter.

7 (g) A law school that is accredited by the Council of the Section  
8 of Legal Education and Admissions to the Bar of the American  
9 Bar Association or a law school or law study program that is  
10 subject to the approval, regulation, and oversight of the Committee  
11 of Bar Examiners, pursuant to Sections 6046.7 and 6060.7 of the  
12 Business and Professions Code.

13 (h) A nonprofit public benefit corporation that satisfies all of  
14 the following criteria:

15 (1) Is qualified under Section 501(c)(3) of the United States  
16 Internal Revenue Code.

17 (2) Is organized specifically to provide workforce development  
18 or rehabilitation services.

19 (3) Is accredited by an accrediting organization for workforce  
20 development or rehabilitation services recognized by the  
21 Department of Rehabilitation.

22 (i) An institution that is accredited by the Accrediting  
23 Commission for Senior Colleges and Universities, Western  
24 Association of Schools and Colleges, or the Accrediting  
25 Commission for Community and Junior Colleges, Western  
26 Association of Schools and Colleges.

27 (j) An institution that satisfies all of the following criteria:

28 (1) The institution has been accredited, for at least 10 years, by  
29 an accrediting agency that is recognized by the United States  
30 Department of Education.

31 (2) The institution has operated continuously in this state for at  
32 least 25 years.

33 (3) During its existence, the institution has not filed for  
34 bankruptcy protection pursuant to Title 11 of the United States  
35 Code.

36 (4) The institution's cohort default rate on guaranteed student  
37 loans does not exceed 10 percent for the most recent three years,  
38 as published by the United States Department of Education.

39 (5) The institution maintains a composite score of 1.5 or greater  
40 on its equity, primary reserve, and net income ratios, as provided

1 under Section 668.172 of Title 34 of the Code of Federal  
2 Regulations.

3 (6) The institution provides a pro rata refund of unearned  
4 institutional charges to students who complete 75 percent or less  
5 of the period of attendance.

6 (7) The institution provides to all students the right to cancel  
7 the enrollment agreement and obtain a refund of charges paid  
8 through attendance at the second class session, or the 14th day  
9 after enrollment, whichever is later.

10 (8) The institution submits to the bureau copies of its most recent  
11 IRS Form 990, the institution's Integrated Postsecondary Education  
12 Data System Report of the United States Department of Education,  
13 and its accumulated default rate.

14 (9) The institution is incorporated and lawfully operates as a  
15 nonprofit public benefit corporation pursuant to Part 2  
16 (commencing with Section 5110) of Division 2 of Title 1 of the  
17 Corporations Code and is not managed or administered by an entity  
18 for profit.

19 (k) Flight instruction providers or programs that provide flight  
20 instruction pursuant to Federal Aviation Administration regulations  
21 and meet both of the following criteria:

22 (1) The flight instruction provider or program does not require  
23 students to enter into written or oral contracts of indebtedness.

24 (2) The flight instruction provider or program does not require  
25 or accept prepayment of instruction-related costs in excess of two  
26 thousand five hundred dollars (\$2,500).